159-96

G. R. S. IX-5]

Previous references.

1896-9.

File No. 159-96.

192

Serial Nos. 154

(44)

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 154

Part B for March 1896.

SUBJECT.

Officers of Revenue Survey Parties encamped at Gotalpur Alipore &c. to receive the Revenue of the Dyaconer Estate on 25th inst. at the Cutcherry of Lower Dyaconer Gotalpur Village.

---

44. To.

The Dy Collector Dyaconer Dt.

No 8826/27 dt 18-3-96 dt 19-3-96.

Receive orders with certain alterations.

Endorsed.
4/8/21
RM

WD 223—GPL—20,000—1-6-20

2½

(1

L.Q. 157-94

Before the Government of *His Highness* the Maharaja of Mysore.

Appeal No. 144 of 1894-95

Appellant.s

1 Krishnarao
2 Rache Gowda
represented by
G. Srinivasaiyar

Vs.

Respondent.s

1 Doddi Dyava
2. Chikki Dyava
represented by
M.L. Srinivasaiyar
M.V. Raghavachar

Notice ordered to issue
25. 6. 95.
Case called ordered.
Parties absent.
Adjd to 16th inst

Notice served.

16. 7. 95.
Appellant absent
Respt - by M.K. Narasimhaiyar
& M.L. Srinivasaiyar
Read petn of appt & adjourned -
adjourned to 23rd inst.
Notice issued 16/7

Respondents served.
Appellants notice not returned.

23. 7. 95.
1st addl to papers.
Respts by M.K. Narasimhaiyar
adjd to 13th inst for appt to file
Notice issued 23/7

13. 8. 95.
appt by M.L. Srinivasaiyar
respts by M.K. Narasimhaiyar

Cr.
Arguments heard
Order reserved -

13/3/18

13/3

The first Def^t is the Guardian of the Village - He makes a distinct assertion that he removed the Pltf for some offences such as insubordination, inattention to work and so forth - After running through he also asserts that he appointed the 2nd Def^t who ~~appeared~~ allyes to be a member of the original burgher family. The Def^t Counsel says that he did not go into the question of the 2nd Def^t's title as he was of opinion that his right became barred after the Pltf had enjoyed it for more than the statutory period - But this new ground would require the pleadings of the 1st Def^t which was that removed the Pltf - The question seems to resolve itself into

"whether the removal of the Pltf by the 1st Def^t is valid and binding"

This question seems to be both relevant and material

~~Since~~ - The first D/J chiefly contended that he was not given an opportunity to prove his case and this contention seems to be well founded - The Det Constable then informed the Supreme Court he decided this issue - He will allow both parties to adduce evidence bearing on the grounds & will also note the fact that the first D/J's Predecessors have been exercising the right of removal & after the date. The D/J himself seems to have his doubts about the exercise of such a right by the 1st D/J - As the case will be thus opened it will be as well to decide the claim at once by the 2nd D/J as if it is found that the D/J was rightly dismissed the eligibility of the 2nd D/J will have to be decided. The 2nd D/J will be allowed to adduce evidence to prove his allegations. The Det Constable will find these additional issues and base any further orders

(5)

The Q. Commr. has held that the hereditary Chief of the Office Vests in the 1st Plff's family. She was therefore right in appointing the 3rd. Plff. to ~~[illegible]~~ on the 1st Plff. in succession to his father.

I do therefore dismiss the appeal

15th Feb/96 Abdul Rahman

on further consideration I agree to the above order

Abdul Rahman

27/2/96

Abdul
27/2/96

in the case such as may be called for from his findings of fact issues. The case will be remanded to the dy court with the above directions.

Willis Sanford D.

To Abdul Rahman
Enfield & Co
23.2.96

I think there is nothing in my judgt for remanding the case as stated in the above order of my learned colleague - I do not decide the case on the facts already elicited.

1st Def (now Appt) was in Court & in London 7th Sept. He was originally served from Lincoln, but was imprisoned for Dy. Summ. in the Queen's Bench Prison, & there served with the 1st Def. & so on back as 1882.

On appeal from 2nd Dept the Master wisely made an interlocutory appointment in the Queen's Bench Prison & 1st Def. personally imprisoned there for Dy. Summ. allowed to stand, in the following year.

1st Def. served the 1st Def. without reference to the 1st Dept. Summ. Hence the writ & the latter.

In the case of the 1st Def. in replevin, for the 2nd Def. the 1st Def. was served in Office for 30 days, without the sanction of the Dy. Summ. Was most irregular, but quite allowed to be practice. Statutes unrepealed

D.

Gen. Serial No. 32.] 111

1895 (2-134-74)

No. 708

Name of Petitioner.

Village.

Taluk.

District.

Date of [illegible]

Date of Receipt. 1-4-95

Date of Disposal.

No. of Enclosures.

ABSTRACT.

Received by post 1/4/95

Ex. 3

Petition

Whether 8th annual Report produced?

MYSORE DEWAN'S OFFICE.
PETITION DEPARTMENT.
REG'D. NO. 2-5-20 A
DATE 1-4-95

MYSORE COURT FEE

31

O.S. 144 of 1894-95.

In the Honorable Council of Mysore.

Revenue appeal No. of 1894-95.

Appellants. (1) Krishna Rao, residing at Hosa, Mysore.
(2). Rachappa, residing at Gopalpura Mysore Taluq.

Respondents. (1) Doddadyava, residing at Gopalpura Mysore Taluq.
(2). Chickka Dyava, residing as above.

The abovenamed appellants beg to appeal to this Hon. Council against the decision passed by the Deputy Commissioner of Mysore in Rev. Suit No. 11 of 1892-93 for the following reasons, namely -

The Lower Court erred in holding that the 1st plaintiff Since deceased was the Kulkarni patel of the Seriyanayanapura village of Gopalpura.

[illegible]

28-3-95

[illegible]

properly considered Exhibit D at pg 31/2

4. The Lower Court has overlooked the various documents filed by the Defendants in support of their defence

5. The Lower Court erred in not receiving any evidence as to the 2nd Defts father and his brother having been tasés.

6. The Lower Court is wrong in finding that Defendants right is barred by lapse of time.

7. The Lower Court erred in not giving an opportunity to the 1st Defts to prove that the deceased 1st Deft was rightly removed from his office, under the circumstances of the case.

8. The Order as to Costs is wrong.

For the foregoing reasons the appellants humbly pray that this Hon. Council will reverse the decision of the Lower Court and affirm the 2nd Defendants right to the Tetelí or remand the case for a fresh decision after receiving the evidence which the appellants might adduce in the case.

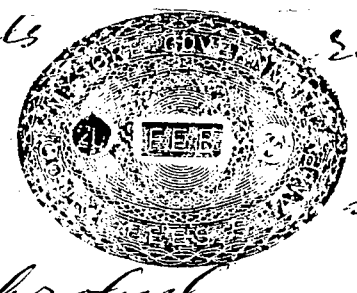
G. Sicouri & Co
Proctors for
appellants

Value of the Court fee Stamp in L. Court Rs 10.
Value of the appeal. Rs 10.

Memo

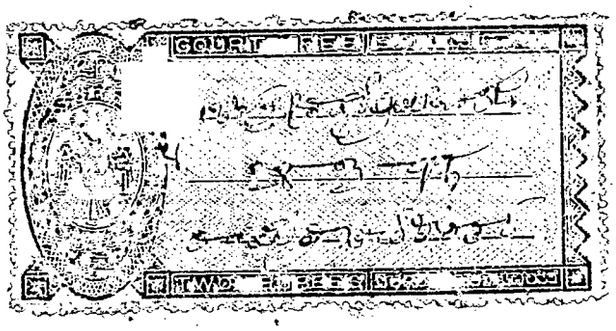
not appeal the 2nd Defts right to the Tetelí.

3. The Lower Court has



erred

(9



3 2

IN THE COURT OF THE Honourable Amildar

OF Mysore

Rev. Appeal CASE No. OF 189 4-95

Sri Krishna Urs
Rachayanda
} Versus {
1. Doddathayamma
2. Chikkathayamma

1. I, or we the above named Appellants do by these presents retain and appoint Mr. G. Srikantaiah Advocate to appear for and conduct the above case, on my or our behalf to Judgment.

2. I, or we further empower him to execute any decree or order that may be passed in the above suit on my, or our behalf, and to recieve any sum or sums of money from the Court and to grant sufficient receipt for the same.

3. I, or we also undetake to grant, ratify, approve, and confirm all the legal acts and proceedings done by the said Advocate in so doing, on my, or our behalf.

Witness this day

Our hand.

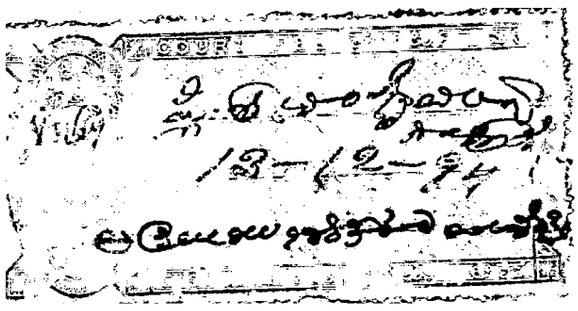
Signed before me

G. Srikantaiah

Accepted.

G. Srikantaiah
Pleader Mysore

~~Advocate~~ for Appellants



(10)

(12)

33
1-6

In the Court of the Deputy Commissioner

Mysore District

Present A. Rangaswami Iyengar Esqr B.A. B.L.

Revenue Regular Suit No: 11 of 1892-93

Plaintiffs		Defendants
1st Dayregonda son of Patail Kantharaiah	1st	1st the Krishnaiahs of Mysore
Gowda of Surramanya Gopalpur village Mysore Taluk	2nd	2nd Rajegowda present Patail
2nd Sodda Dayra natural and 3rd Nicka Dayra foster sons of 1st Plaintiff		

This is a suit brought for the recovery of the Patailship of Surramanya Gopalpur village Mysore Taluk.

Judgment

The oral evidence clearly shews that 1st Plaintiff has been Patail for about 30 years and

and that Antay Gowda was Patail before him.

These facts are admitted generally in the petition addressed by Mysore Seray Gowda deceased broth of the 2d Defendant (vide ex' E).

The 2d Defendant has admitted that this petition was submitted by his elder brother and that the facts therein stated are correct. It was alleged for the 2d Defendant that Antay Gowda was only a substitute or Baddi and not a Patail appointed in his own right But there is no document to bear out this statement. This has not even been alleged in exhibit D, which contains a statement that owing to the disputes between the members and his mother, Antay Gowda was appointed Patail and that the 1st Plaintiff succeeded him

him in the office. In 1881, the 1st Plaintiff
was dismissed and 2d Defendant's brother
Mysore Lavagowda writer of exhibit D was
appointed by Devajemmani and Bavarajiah
But this arrangement was set aside soon
after by the rightful Manicadar (father of
1st Defendant) in communication with the
Deputy Commissioner and the appeal of
the 2d Defendant's brother to government
was rejected (vide exhibit A and it's enclosures)
The 1st Plaintiff's claim was thus upheld so
long ago as 1881, and the Defendant's rights
denied. It is thus clear that the Patail
ship rests in the family of the 1st Plaintiff
I considered it unnecessary to receive
oral evidence in support of the 2nd
Defendant's

Page 6.

have no right to succeed to the office in preference to 3rd Plaintiff. The 3rd Plaintiff will therefore be registered as Patail and as he is young and not well up to the work, the 2d Plaintiff who appeared to be capable will be appointed as his Gumasta for 5 years.

The costs of this suit will be paid by the Defendants.

23/11/94 (Sd.) A Rangaswami Iyengar

Deputy Commissioner
Mysore District

"Copy"

M G Krishnaiengar
Revenue Sherastadar
Mysore District

Copy applied for 22/12/94 by V. Srinivasa Iyengar Pleader for Defendants
Copy ready 21-12-94
Copy delivered 23-1-95 MK
No: of words 807
Copying fee 4-13-6
Comparing fee 4- 3-4
Paper cost 4- 4-6
1-1-4

Compared
H Lakshmipathiah

M. Shankara Row
Ag Copyist

Defendants allegation that his father and his elder brothers were Patels prior to his Gowda's appointment, as even if that should be found in the affirmative, the right must be held to have been barred by adverse possession for over 30 years under the order of government in Exhibit

The findings on the first and second issues must thus be for the Plaintiffs and adverse to the Defendants.

The first Defendant admits that he removed the 1st Plaintiff from office about 2 or three years ago without the sanction of the Deputy Commissioner. He has taken no steps to prove that the 1st Plaintiff was inefficient or dishonest, After the death

of

of 1st Plaintiff and while the suit was pending the 1st Defendant appears to have made an attempt with the assistance of the Amildar to get an order passed by the Sub-Commissioner nominating the 2nd Defendant as Patel in succession to 1st Plaintiff without reference to these proceedings. But even there, the rights of the 1st Plaintiff's heirs were affirmed.—

I have no doubt the action of 1st Defendant in dismissing the 1st Plaintiff was improper and unauthorized and the dismissal must be set aside.—

The 3rd Plaintiff is the 1st Plaintiff's son and 2nd Plaintiff is his nephew. Though alleged to be a foster son, the latter can have

Mly [illegible] 8-3-95 [illegible]

Mly [illegible]

[illegible]

34/1-2

[illegible]

[illegible]

[illegible]

[illegible]

1892-93 [illegible]

[illegible] —	[illegible] —
1. [illegible]	1. [illegible]
2. [illegible]	2. [illegible]
3. [illegible]	

[illegible]

[illegible]

Mly

[illegible]

[illegible] 13-8-4

[illegible] 13-8-4 [illegible]

page 2

~~[illegible]~~

~~[illegible]~~ (17)

[illegible]

[illegible]

[illegible]

	[illegible]			[illegible]		
[illegible]	10	-	-			
[illegible]	-	8	-	-	8	-
[illegible]	-	-	-	-	-	-
[illegible]	-	-	-	-	-	-
[illegible]	1	8	-	4	8	-
[illegible]	1	8	-	5	8	-
[illegible]	-	-	-	-	-	-
[illegible]	-	-	-	-	-	-
[illegible]	-	-	-	-	-	-
[illegible]	13	8	-	10	8	-

[illegible] 13-8-

"Sd" A. Rungaswami Iyengar
Deputy Commissioner

Compared
H. Sampathiengar

"Copy"

M. G. Krishnienger
Revenue Sheristadar
District Office
Mysore

Copy applied by Sreenivasaiengar pleader of defendant } 18.3.95

Copy ready for 26.3.95

Copy received - 26.3.95

No. of words 212
Copying fee - 3 - "
Comparison ... 6
paper ... 3
... 3 - 9

with him, and submitted the matter to you. Under your order No , appointing me, Hukum No 274 of 29.7.87 was issued to me from the Taluk.

Hiredar Ranjarajeurs, after redeeming half of the village which had been mortgaged, suddenly and without any cause, issued, * a Sakid to Karideve Gowda that, he should not be appointed by his mother Gowda and he should hold the office; and I hear that he has also addressed a petition to you. I pray that the request of this person who is merely a Hiredar, for the appointment of Karidevegowda which he desires and of redeeming and which is contrary to the arrangement made

* the the object that Patil appointed by mother whom he hates does not remain,

jointly by the two persons
that enjoyed the village, on
the grounds that the said
Karidevu Gonda was an
old man of 60 and did
not do the village work
properly, which arrangement
was also sanctioned by you,
may be rejected and that
the former order may be
confirmed.

Sd. Jupune Devegonda.

(57)

(18

(Translation of Exh. D.)

To

The Deputy Commr
Mysore District

Petition of Mysore Dasa
Gowda Patel of Saravanapura
Gopalapura, Mysore Taluk,
dated 3rd March 1882.—

My father Nanjunda Gowda
was the Patel of this Gopalapura
even before it became
Saravanapura. After him
My brother Dasa Gowda was
also doing duty. Some days
ago ill-feeling having arisen
between the Kempadasa Nattar
and us, one Lanka Gowda
was appointed. As this
Karigowda Gowda was Lanka-
Gowda's brother-in-law, the
former was doing the duties

23

1895.

OFFICE OF THE DEWAN OF MYSORE
15-835
21. MAY 1895
Pet: 650

(3)

From

The Deputy Commissioner,
Mysore District.

To

L. A. 159-94-3.
L. A. 159-94-3
The Chief Secretary to the Dewan of Mysore.

Dated 16th
Despatched 18th } May 1895
Received

Enclosures No. 1 file of 77 papers

No. 1289

Submits papers connected with the appeal petition of Krishné Urs & Rachegowda of Gopalpur, Mysore Taluk.

(24 (6)

No.

Enclosures No.

DEPUTY COMMISSIONER'S OFFICE,
MYSORE DISTRICT,

Dated 16th May 1895
18

From A. Rangasami Iyengar Esqr. B.A.B.L
Deputy Commissioner,
Mysore District.

To

The Chief Secretary to the Dewan of Mysore.

SIR. I have the honor to submit here
with the entire proceedings connected w
the appeal petition of Krishna Ehrs, & Rach
Gowda, of Gopanlpur, Mysore Taloo K
as directed in your C.M. No. Pet/1440, date
12th Instant.

The petition and enclosures receiv
with the above, are herewith resubmi

I have the honor to be
Sir,
Your most Obedt Servant

A. Rangasami Iyengar
Deputy Commissioner
Mysore District

Compd.
Atty.

with the latter. Meanwhile, both Lankegowda and my brother Devegowda died. Since then the Karnikar finds he alone was doing the duties. Since he was not doing the collection and rest of the village properly, Byrajamanni and Baranajaiah, who were enjoying the village, and for me, appointed me as Patel of the village saying that I was the Vakkalu and that I should ~~do the work~~ hold the office, and in 1881 addressed a petition to you. Thereupon the Amildar of the Taluk sent for me, examined both of us, and taking the Govt. order & other papers that were with me since the time of my father, and also those that were

Pet
144

(22

MYSORE DEWAN'S OFFICE,
A.Q. 159-94-2
PETITION DEPARTMENT.

OFFICIAL MEMORANDUM.

The accompanying Petition No. 257 r
dated [illegible] received at the
Dewan's Office from [illegible]
[illegible]
is forwarded, together with its
enclosures, to the [illegible]

By Order,

[illegible]

BANGALORE, 18/4 1895

Chief Secretary.

M.G.C.P.R.—19-2-95—1,000.

Chiefly contended that he was
not given an opportunity to prove
his case and this contention seems
to be well founded. The Deputy
Commissioner should therefore
enquire into and decide this issue
He will allow both parties to
address evidence bearing on the
point and will also note the fact
that the 1st Defendant's predecessor
have been exercising the
right of removing and appointing
the Cadi. The 1st Plaintiff himself
seems to owe his appointment
to the exercise of such right by
the 1st Defendant. As the case
will be thus opened it will be
as well to decide the Claim
set up by the 2nd Defendant; as,
if it is found that the 1st Plaintiff
was rightly dismissed, the
Culpibility of the 2nd Defendant

will have to be decided. The 2nd
Defendant will be allowed to ——
adduce evidence to prove his
allegations. The Deputy Commissioner
will find these additional issues
and pass any further orders in
the case such as may be called
for from his findings of these issues.
~~Costs~~ 2 The case will be remanded
to the Deputy Commissioner with
the above directions

Sd/-
for Secretary

To the Dy Comr Mysore Dist
with records
Recd Cert & both parties.
16/Jan
3-

Pro. of the Govt. of Mysore

DR Vol II
10963

Read

(5)
in O.S. 59-94-4

Petition no 2560/744 ~~without date~~ 1st pet 95
~~Received~~ from Krishna Ubra of
Mysore and Rache Gowda of Gopalpur
Mysore Taluk, appealing against
the order of the Deputy Commissioner
Mysore dt. 16th May 1895 P.F. 59-95
directing the appointment of Chikka
Deva (3rd Def) as Patel of
Sarvamangam Gopalpur village

(2) Records received with Letter No
1289 3/16th May 1895 from the
Deputy Commissioner, Mysore
District

1st Pltff
1. Mysore (under disqualified)
2. Dod Gowda
3. Chikk Mysore

2nd Defts
1. Krishna Ubra
2. Respondent

8626.
P.F. 63 of 95-96. 25-3-96 Order
21
× Encl: one Ver: file

Call follow.
Ver: file Requisition today.
Mysore 24/3/96.

The 1st Defendant is the Inamdar
of the village. He makes a distinct
assertion that he removed the 1st Pltff
for some offences such as
misbehaviour

insubordination, via Nenlon to work and so forth. After removing him he also asserts that he appointed the 2nd Defendant who alleges to be a member of the original Muggari family. The Deputy-Commissioner says that he did not go into the question of the 2nd Defendants' title but he was of opinion that his right became barred after he & Pff had enjoyed it for more than the Statutory period. But this view seems to ignore the pleadings of the 1st Defendant who it was that removed the Plff. The question seems to resolve itself into —

- Whether the removal of the Plff by the 1st Defendant is valid and binding." ~~This question~~ This question seems to be both relevant and material. The 1st Defendant

Chiefly